

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA

----- X
DAVID G. DEROSA, ERIN N. LOGAN, JANIE :
L. GLOVER, MINNIE GLOVER, JAMES A :
GARCIA, JENNIFER GARCIA, RENEE : No. 2:11-cv-02914-ER
JOHNSON, and STEPHEN B. JOHNSON, on :
behalf of themselves and all others similarly :
situated, :

Plaintiffs, :

v. :
X
CITIMORTGAGE, INC.

Defendant.

**CITIMORTGAGE, INC.’S MOTION FOR LEAVE TO FILE MOTION TO DISMISS IF
THE COURT DENIES PLAINTIFFS’ MOTION FOR CONSOLIDATION**

For the following reasons, defendant CitiMortgage, Inc. (“Citi”) respectfully requests leave to file the accompanying motion to dismiss if the Court denies plaintiffs’ unopposed motion for consolidation in its entirety.

1. Plaintiffs David DeRosa, Erin Logan, James and Jennifer Garcia, Janie and Minnie Glover, and Renee and Stephen Johnson filed the complaint in this case on May 2, 2011. The Waiver of Service of Summons requires Citi to answer or otherwise respond to the complaint within 60 days of May 4, 2011, making Citi’s pleading due on July 5, 2011.

2. On June 28, 2011, plaintiffs filed a motion to consolidate this case with *Whiting v. CitiMortgage, Inc.*, No. 2:11-cv-2318-ER (E.D. Pa.), a similar lawsuit pending before this Court that was filed by the same counsel who filed this case. As plaintiffs’ motion represented, Citi does not oppose plaintiffs’ motion for consolidation. Alternatively, if the Court denies plaintiffs’

motion for consolidation, the parties agreed that Citi would have 30 days from the entry of the Court's ruling to answer or otherwise respond to the complaints in this case and *Whiting*.

3. Citi submits that plaintiffs' motion for consolidation tolls the deadline for its responsive pleading. Nevertheless, out of an abundance of caution, Citi seeks leave to file the accompanying motion to dismiss if the Court denies both plaintiffs' request for consolidation and the parties' alternative request that Citi be given 30 days from the entry of the Court's ruling to answer or otherwise respond to the complaints in this case and *Whiting*.

Accordingly, Citi respectfully requests leave to file the accompanying motion to dismiss if the Court denies plaintiffs' unopposed motion for consolidation in its entirety.

DATED: July 5, 2011

By: /s/ Marc C. Singer
Marc C. Singer

SAIBER
18 Columbia Turnpike
Suite 200
Florham Park, NJ 07932-2266
Tel.: 973.622.3333

Attorney for CitiMortgage, Inc.

CERTIFICATE OF SERVICE

I hereby certify that on July 5, 2011, I electronically filed the foregoing with the Clerk of the Court using the ECF system. Copies of the above and foregoing will be mailed by first class, U.S. mail on this date to those who are not registered with the ECF system.

/s/ Marc C. Singer
Marc C. Singer